

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

LEO ALECK, PEARL CHARLEY,  
JOANNE TAHMALWASH, and the  
Heirs of EDDY (EDDIE) ALECK,

CV 04-277 AS

Plaintiffs,

ORDER

v.

THE UNITED STATES OF AMERICA,  
acting by and through the BONNEVILLE  
POWER ADMINISTRATION, and STEVE  
WRIGHT, Administrator of the Bonneville  
Power Administration,

Defendants.

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ASHMANSKAS, Magistrate Judge:

Plaintiffs are members of the Yakama Nation, and are the owners of Vancouver Allotment No. 162, an 80-acre parcel of property in the Columbia River Gorge, located in the state of Washington, approximately ten miles east of The Dalles, Oregon. Plaintiffs are all of the heirs of Edna Welch Alex, who was the sole heir of Minnie, the original owner of the

Allotment. Plaintiffs assert claims for trespass, and seek declaratory and injunctive relief, an accounting and disgorgement of the benefits derived from the trespass, treble damages, fees and costs.

In August 2004 plaintiffs moved for partial summary judgment (#13). Defendants responded with a motion to dismiss for lack of jurisdiction. I recommended that the motion to dismiss be granted. The parties have agreed to a briefing schedule for plaintiffs to file an Amended Complaint and possible motion for transfer to the United States Court of Federal Claims. The motion for partial summary judgment (#13) is denied as moot.

IT IS SO ORDERED.

Dated this 21<sup>st</sup> day of November, 2005.

/s/ Donald C. Ashmanskas

Donald C. Ashmanskas  
United States Magistrate Judge